

GMX ProMail

**Fwd: Closing the file: Hague return case: child Sabina
MERTENS, born on 29 April 2011; our ref.: I13 - SR - U5 - A -
232/13**

Von: <int.sorgerecht@bfj.bund.de>

Datum: 13. August 2018 um 17:21

Betreff: WG: Closing the file: Hague return case: child Sabina MERTENS, born on 29 April 2011; our ref.: I13 - SR - U5 - A - 232/13

An: umertens1@gmail.com

Sehr geehrter Herr Mertens,

die unten stehende E-Mail vom 10.08.2018 sowie das offizielle Schreiben der Zentralen Behörde der Ukraine vom 09.08.2018 nebst Anlage wird Ihnen zur Kenntnisnahme übersandt.

Die ZB Ukraine teilt mit, dass mit der beigefügten Entscheidung des Kassationsgerichts vom 06.06.2018 die durch Ihren privaten Anwalt eingelegte Kassationsbeschwerde zurückgewiesen wurde und die **ablehnende Entscheidung des Berufungsgerichts vom 07.12.2016 über die Nichtrückführung des Kindes beibehalten wurde.**

Diese Entscheidung des Kassationsgerichts vom 06.06.2018 ist endgültig und kann nicht mehr angefochten werden. Damit ist das HKÜ-Rückführungsverfahren beendet und meine Behörde wird Ihren Vorgang in Kürze hier abschließen.

Jetzt besteht für Sie nur noch die Möglichkeit, ggf. einen **Umgangsrechtsantrag nach Artikel 21 HKÜ zu stellen entweder direkt beim ukrainischen Gericht oder über die Zentralen Behörden.**

Ich wünsche Ihnen alles Gute und verbleibe

mit freundlichen Grüßen

<...>

Referat II/3 (Internationale Sorgerechtskonflikte)

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-----Ursprüngliche Nachricht-----

Von: Руна А.П. Мінюст

Gesendet: Freitag, 10. August 2018 12:25

An: intsorgerecht <int.sorgerecht@bfj.bund.de>

Betreff: Closing the file: Hague return case: child Sabina MERTENS, born on 29 April 2011; our ref.: I13 - SR - U5 - A - 232/13

Dear Ms <...>,

I hope this message finds you well.

Referring to the above named case, please, find enclosed the copy of the official letter of the CA of Ukraine concerning the above named case dated August 9, 2018, original of which was sent to your Office by mail.

Taking this opportunity let me thank you and your colleagues from the German CA who were involved into this case for the mutual cooperation in this case.

Please, feel free to contact our Office should you need any clarification pertaining to the issue.

With respect,
for the CA of Ukraine
Andrew RUPA
Main Specialist

Dateianhänge

- letter from 09.08.2018.PDF



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№ _____

Ha № _____

**Federal Office of Justice of the
Federal Republic of Germany
Central Authority
(International Custody Conflicts)**

53014, Bonn, Germany

Referring to the case on return of the minor **Sabina Mertens**, please, be informed that according to the information from the State Register of Court Decisions of Ukraine **the Supreme Court of Ukraine by its Resolution dated June 6, 2018 (see the text in the Ukrainian language enclosed), rejected the cassation complaint**, lodged by the applicant's private attorney, and left the Decision of the Appeal Court of Khmelnytska oblast dated December 7, 2016, on **non-return** without changes.

Please, be informed that the **Resolution of the Supreme Court of Ukraine is final**. Thus, please, be informed that the Central Authority of Ukraine has no legal grounds to carry out further actions on return. As there is no possibility to proceed with this case anymore, we proceed to **close this file**.

We also kindly remind that in Ukraine the cassation court stands for the observation of the unified application of the law by the courts of lower instances and does not consider the case on merits.

Please, bring this information to the applicant's attention and keep him apprised that he has the right to file the application on access under Article 21 of the Child Abduction Convention.

We take this opportunity to renew the Central Authority of the Federal Republic of Germany for the Abduction Convention the assurance in the highest consideration.

Enclosure: on 4 pages (only by e-mail).

**Head of the Directorate
on International Law**

Tamara Andriieva

003258

Andrew RUPA
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incorrect application by the appellate court of the rules. material rights and violations of procedural law, do not refute the conclusions of the court. In solving this case the appellate court correctly defined the nature of the legal relationship between the parties, the law that regulates them is correctly applied. Taking into account that the conclusions of the Court of Appeal correspond to the circumstances established in the case, the court decision was adopted with due observance the rules of substantive and procedural law, the cassation appeal must be left without satisfaction, and the judicial decision unchanged, in accordance with the provisions of Article 410 of the Civil Code of Ukraine. Guided by Articles 402, 409, 410, 416 of the Civil Code of Ukraine, the Supreme Court in the composition of the board of judges of the First Cassation Chamber civil court

RESOLUTION:

Cassation appeal PERSON 2, filed by the representative of PERSONALITY, to leave without satisfaction.

Decision of the Court of Appeal of Khmelnytsky region dated December 07, 2016, in relation to the claims of the Main Department of Justice in Khmelnytsky region in the interests of PERSON 2 to OSOB 4 on ensuring the return of a minor child to the Federal Republic of Germany to remain unchanged. -

The decision of the court of cassation, which is valid from the moment of its adoption, is final and can not be appealed.

Chairperson D. D. Lupenyk

Judges: O. V. Bilokon

E. V. Synelnikov

S. F. Hopta

Yu. V. Chernyak